

**MINUTES  
NEVADA STATE BOARD OF OPTOMETRY  
REGULAR MEETING**

November 8<sup>th</sup>, 2002  
University of Nevada, Las Vegas  
Meeting Room C, Thomas & Mack Center  
4505 Maryland Parkway  
Las Vegas, Nevada 89154

Dr. Alleman asked for public comment. There was no public comment

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 12:00 o'clock P.M. on November 8<sup>th</sup>, 2002, in Meeting Room C, Thomas & Mack Center, University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President  
Brad C. Stewart, O.D., Board Member  
Jack Sutton, O.D., Board Member  
George Bean, Board Member  
Judi Kennedy, Executive Director  
Hal Taylor, Board Counsel

Also present were:

Lawrence Davidson, Esq.  
Amel Afifi, O.D.  
Shanda Badger, Executive Director  
Nevada Optometric Association

The minutes of the Board's September 13<sup>th</sup>, 2002, meeting were presented for approval. Dr. Sutton moved the minutes be approved as drafted. Mr. Bean seconded the motion. The vote was unanimous.

The Board moved to Agenda Item 3, the Accusation of Judi D. Kennedy, as Executive Director, vs. Amel Y. Afifi, O.D. Dr. Alleman noted Dr. Afifi and her attorney, Mr. Davidson, were present and thanked them for attending the meeting. Dr. Alleman acknowledged receipt by the Board of correspondence from Dr. Afifi and her attorney. Dr. Alleman asked Ms. Kennedy if Dr. Afifi had rectified the violations outlined in the Accusation. Ms. Kennedy replied that Dr. Afifi had taken the necessary steps and was now compliant with the statutes and regulations. Mr. Davidson proposed resolution of the Accusation by a reduction of the fine assessed from \$5,000 to \$1,000. Mr. Davidson correctly stated Dr. Afifi had previously submitted a check in the amount of \$400 and indicated she had a check in the amount of \$600 she wished to tender to the end of resolving the matter. After discussion, Dr. Sutton moved the matter be dismissed based on resolution. Dr. Stewart seconded the motion. The vote was unanimous.

Turning to Agenda Item 4, the Accusation of Judi D. Kennedy, as Executive Director, vs. Mark Ohriner, Dr. Alleman noted a subpoena had issued requiring Dr. Ohriner's presence at the meeting, and observing he was not present. There ensued a discussion among the members which included Dr. Ohriner's failure to respond to his patient, his failure to communicate with the Board, and that he had previously been fined \$5,000 for similar acts. Dr. Sutton moved the Accusation be found to be valid and that a fine in the amount of \$5,000 be assessed. Mr. Bean seconded the motion. Dr. Alleman asked for further discussion. The members discussed Dr. Ohriner's failure to appear in response to the subpoena, and the necessity of instituting a show cause action in district court. Dr. Sutton amended his motion to include the filing of a show cause action. Dr. Stewart seconded the motion. It carried unanimously.

The Board next considered Agenda Item 5, the complaint of Emilie Wanderer vs. Scott Brotherson, O.D. The Board considered the allegations of the complaint, including Dr. Brotherson's advice to the patient, noting the patient had been advised for referral for treatment of pathologic conditions. The Board noted further that the patient had not accepted the referral, and that a new prescription would not have improved her vision. Dr. Sutton moved the complaint be dismissed on the ground it lacks merit. Mr. Bean seconded the motion, which carried unanimously.

Mark Ohriner, O.D. joined the meeting.

Next considered by the Board was Agenda Item 6, the complaint of Madeleine Fox vs. Jeffrey D. Ferris, O.D. Dr. Alleman noted Dr. Ferris had examined Ms. Fox, that she had purchased her glasses from an adjacent optician's office, and had returned on numerous occasions for changes to the glasses. In its ensuing discussion the Board observed Ms. Fox had been told she had cataracts and had subsequently undergone cataract surgery. Dr. Alleman pointed out the records reveal her visual acuity had improved with the prescription. Dr. Sutton opined there may have been a breakdown in communication regarding the propriety of Ms. Fox driving. Dr. Stewart moved the complaint be dismissed as there is no evidence of substandard care. Dr. Sutton seconded the motion. The vote was unanimous.

Moving to Agenda Item 7, the complaint of Vernon W. Boyes vs. Daniel T. Rowan, O.D., Dr. Alleman remarked there were no significant changes between first prescription issued by Dr. Rowan and the second prescription issued by Dr. Winkelman. After discussion, Dr. Stewart moved the complaint be dismissed as there is no evidence of substandard care. Dr. Sutton seconded the motion. The vote was unanimous.

The Board next considered the complaint of Ryan C. Hernandez vs. Mario Aguero, O.D. Dr. Alleman observed no response to the complaint had been received from Dr. Aguero. After discussion, Dr. Stewart moved the matter be continued for further consideration at the Board's January, 2003, meeting, that a subpoena issue for Dr. Aguero's appearance at that meeting and that he be required to produce copies of Mr. Hernandez' medical records. Mr. Bean seconded the motion, which carried by unanimous vote.

The Board moved to Agenda Item 9, the complaint of Larry Ward vs. John H. Staub, O.D. Dr. Alleman indicated the matter had been continued from the Board's September, 2002, meeting for further consideration. Dr. Alleman restated for the Board, the allegation in the complaint that Mr. Ward's daughter's glasses had not been made properly, noting Dr. Staub had submitted a copy of the lab order for the glasses. Dr. Sutton stated the lab order reflects the glasses were properly made. Dr. Sutton moved the complaint be dismissed as there is no evidence of substandard care. Dr. Stewart seconded the motion. The vote was unanimous.

The Board moved to Agenda Item 10, the complaint of Debra Jurad vs. James Herzman, O.D. Dr. Alleman indicated the matter had been continued from the Board's September, 2002, meeting for further consideration, and with a follow-up request for medical records. After reviewing the correspondence and the records, Dr. Sutton stated he doesn't feel the prescription process for the contact lenses had been completed and the patient is now being treated by another optometrist. Dr. Sutton indicated he did believe Ms. Jurad was due a letter of apology from Dr. Herzman. Dr. Sutton moved the matter be dismissed, contingent on receipt of a copy of Dr. Herzman's letter of apology to Ms. Jurad. Mr. Bean seconded the motion, which carried unanimously.

Noting the presence of Dr. Ohriner, the Board returned to Agenda Item 4, the accusation of Judi D. Kennedy, Executive Director vs. Mark Ohriner, O.D. Dr. Ohriner stated he had written a letter to Mr. Fullerton, the complainant, had sent it to the Board office for approval and review by the Board, and had included an envelope for mailing to Mr. Fullerton. Dr. Alleman asked if he had proof the letter had been mailed to the Board. Dr. Ohriner replied in the negative. Dr. Sutton inquired of Ms. Kennedy if the Board had requested review of the letter. Ms. Kennedy responded it had not. Mr. Bean asked when the second letter had been mailed to the Board office. Dr. Ohriner replied it had been mailed the last week in October. Dr. Alleman observed there was no evidence of the mailing of any letter to the Board, and that almost five months had elapsed since the Board's July 12<sup>th</sup>, 2002, order. Pointing out that Dr. Ohriner alleged part of the delay surrounding the preparation of a letter to Mr. Fullerton was due to illness, Dr. Alleman inquired how much time he had lost at work because of illness. Dr. Ohriner replied he had left early many times. Dr. Sutton asked if Dr. Ohriner feels the accusation is valid. Dr. Ohriner replied the accusation is valid because he had not followed up with the patient. Dr. Alleman observed all that was required of Dr. Ohriner, to dispose of the original complaint, was to write one letter. Dr. Stewart moved the accusation be disposed of by the payment of a fine in the sum of \$5,000 and that within 10 days Dr. Ohriner furnish the Board with proof that a letter of apology had been sent to Mr. Fullerton. Mr. Bean seconded the motion. The vote was unanimous. Dr. Sutton withdrew his prior motion.

The Board moved to Agenda Item 12, the report of the Executive Director.

Ms. Kennedy stated because the proposed regulation regarding glaucoma certification had been tabled, the revised glaucoma certification request form was moot.

Moving to the issue of renewal fees, Mr. Bean moved the renewal fee for a primary practice location remain at \$350 for the 2003-04 license year; that the renewal fee for each additional location remain at \$175 for the 2003-04 license year; and that an inactive fee in the amount of \$200, for individuals not practicing in the state, be established. Dr. Sutton seconded the motion, which carried unanimously.

The Board reviewed the 2002 Newsletter. Mr. Bean requested the expiration date for his term be added. Dr. Stewart requested the expiration date of his term be changed since he had been re-appointed.

The Board scheduled a regular meeting for March 7<sup>th</sup>, 2003, in Las Vegas, Nevada.

Dr. Alleman asked for public comment. There was no public comment.

Mr. Bean moved the meeting adjourn. Dr. Sutton seconded the motion. The vote was unanimous. The meeting adjourned at 1:40 p.m.